

FOSTER,
SWIFT,
COLLINS &
SMITH, P.C.

ATTORNEYS AT LAW

ERIC E. DOSTER
517 371 8241
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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

November 10, 2004 , 2004 NOV 12 P 1: 36

By Federal Express Delivery

Jeff S. Jordan, Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington DC 20463

Re: MUR 5581; Response of the Michigan Republican State Committee ("MRSC") and
Greg McNeilly, Executive Director of the Michigan Republican State Committee

Dear Mr. Jordan:

We are in receipt of your letter and its attachments in the above-referenced matter. Attached for your records is the Statement of Designation of Counsel authorizing the undersigned to act as counsel in this matter.

We have also reviewed the complaint (the "Complaint") filed by Mr. Daniel Schneider on or about October 25, 2004. Counts 1-3 (paragraphs 14-26) apply to the MRSC while the remainder of the Complaint pertains to other respondents for which the MRSC provides no comment. Although the Complaint names Greg McNeilly (Executive Director of the MRSC) as a respondent, the Complaint makes no allegations of any wrongdoing by Mr. McNeilly.

With respect to those provisions of the Complaint that do pertain to the MRSC, the allegations in the Complaint are identical to those allegations raised in the complaint filed in MUR 5533. For your reference, we have re-submitted the MRSC's response in MUR 5533 and incorporate these responses as the responses by the MRSC to the present Complaint in MUR 5581.

Since the baseless allegations raised in MUR 5533 have no merit, the Complaint in MUR 5581 must also be dismissed.

Sincerely,

FOSTER, SWIFT, COLLINS & SMITH, P.C.



Eric E. Doster

EED:dr:mp
enclosure

S\MRSC\MUR\jordan ltr wpd



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Lansing, MI 48933-2193
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Fax 517 371 8200



FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

**Statement of Designation of Counsel
(Respondent/Witness)**

Name of Counsel: Eric E. Doster

Firm: Foster, Swift, Collins & Smith, P.C.

313 S. Washington Square, Lansing, MI 48933-2193

Telephone: (517) 371-8241

Fax: (517) 367-7341

The above named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

10 NOV '04
Date

[Signature]
Signature
Executive Director,
Michigan Republican Party

Name (Print): Michigan Republican Party/Greg McNeilly, Michigan Republican Party

Address: 2121 E. Grand River, Lansing, MI 48912

Telephone: Home ()

Business (517) 487-5413

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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FOSTER,
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ATTORNEYS AT LAW

ERIC E. DOSTER
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October 11, 2004

By Federal Express Delivery

Jeff S. Jordan, Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington DC 20463

Re: MUR 5533; Response of the Michigan Republican State Committee

Dear Mr. Jordan:

We are in receipt of your letter and its attachments in the above-referenced matter. Attached for your records is the Statement of Designation of Counsel authorizing the undersigned to act as counsel in this matter.

We have also reviewed the complaint (the "Complaint") filed by Mark Brewer, Executive Chair of the Michigan Democratic Party. The Complaint alleges that the Michigan Republican State Committee ("MRSC") made an excessive contribution to Ralph Nader, a candidate for President of the United States; however, the Complaint fails to provide any evidence whatsoever to the effect that the MRSC's petition-gathering activity¹ was coordinated in any way with the Nader campaign. With respect to the MRSC's petition-gathering activity:

1. At no time were there ever any conversations, discussions, communications, etc. between the MRSC or its agents, and the Nader campaign or its agents, with respect to the MRSC's petition-gathering activity.
2. The MRSC's petition-gathering activity was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the Nader campaign or any of its agents.
3. The MRSC's petition-gathering activity was completely independent of the Nader campaign's petition-gathering activity.

¹ The costs incurred with respect to this activity included staff time, paper, legal expenses, travel, food, lodging, and independent contractors – all of which were financed from the MRSC's Federal Account and reported to the Federal Election Commission.



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Jeff S. Jordan, Supervisory Attorney

October 11, 2004

Page 2

In fact, Mr. Brewer has already acknowledged that the MRSC's petition-gathering activity was completely independent of the Nader campaign's petition-gathering activity. In the Michigan ballot-access proceedings referenced in the Complaint, counsel for Mr. Brewer readily admitted:

1. "Bureau records show that Nick De Leeuw, a Republican Party operative, filed an estimated 33,764 signatures at 10:19 a.m. on July 15, 2004. (Exh. 2) While the receipt identified "Ralph Nader" as the filer, Ralph Nader was not the filer. There is no evidence that De Leeuw was acting on behalf of Nader or with his authorization. Unquestionably, De Leeuw had no authorization from Nader and was acting as an agent of the Michigan Republican Party." (emphasis supplied)²
2. "Nader's press statements confirmed his disavowal of the Republican signatures. On July 9, 2004, the *Detroit Free Press* reported a statement by Ralph Nader spokesman Kevin Zeese that Nader did not need Republican help to get on Michigan's ballot. ('GOP Lends Eager Hand To Nader's Mich. Effort' *Detroit Free Press*, 7/9/04) (Exh. 7) On July 15, 2004, *Gongwer News Service* reported Zeese's statement that the Nader campaign would not accept the Republican Party signatures. ('More Than 50,000 Signatures Filed For Nader' *Gongwer News Service*, 7/15/04, attached, Exh. 7) An AP news story quoted Zeese as saying that the Nader campaign would not accept petition signatures gathered by Republicans. ('Nader To Shun GOP Help With Election Petition' *Detroit Free Press*, 7/16/04, attached, Exh. 7) Zeese was quoted as saying, 'We have not taken any signatures from them. We won't take any signatures from them. It's very clear from the [Afran] letter that we plan to get on the ballot through the Reform Party.' The story reported Zeese's acknowledgment that 'the campaign is submitting the signatures, far short of those needed, even though Nader still plans to get on the ballot through the Reform Party.' Thus, Nader's own public statements clearly identified the petition signatures being filed by the candidate, which expressly excluded the Republican Party filings.

² See pages 8-9 of the document filed by Mr. Brewer entitled "Challenge to Petition Signatures Filed to Qualify Ralph Nader as a Candidate for President of the United States" dated July 22, 2004 (see Exhibit 1).

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The Republican Party signatures cannot fairly be attributed to Nader over his protestations that they are not part of his qualifying petition." (emphasis supplied)³

3. "But what I am suggesting to you is that the statutory language does not permit a third party, anybody else to come in with an independent filing which the candidate has himself not incorporated into his filing. If he had come in and said, 'I am filing 50,000 petition signatures,' 4500 were collected by him and 43,000 or 45,000 by the Republicans, that would have been it. Those would have been his signatures. But clearly, they were not, and he had a reason for not adopting those signatures." (emphasis supplied)⁴

Since the forum for Mr. Brewer's personal assault on Ralph Nader's presidential bid has shifted from the Michigan ballot access authorities to the Federal Election Commission, Mr. Brewer has now completely reversed his position as to the independence of the MRSC's petition-gathering activity. Nonetheless, although Mr. Brewer's position has changed, the Complaint does not allege any facts that would support the notion that the MRSC's petition-gathering activity was somehow not completely independent of the Nader campaign's petition-gathering activity; instead, the Complaint cites the Michigan Court of Appeals in De Leeuw v Board of State Canvassers to knowingly⁵ make the false and misleading representation to the Federal Election Commission:

"The Court went on to conclude that as a matter of fact and Michigan law, Republicans were acting as Nader's agents when they collected and filed petition signatures to place him on the ballot as an independent candidate for President."⁶

³ See pages 10-11 of the document filed by Mr. Brewer entitled "Challenge to Petition Signatures Filed to Qualify Ralph Nader as a Candidate for President of the United States" dated July 22, 2004 (see Exhibit 1).

⁴ Testimony of Counsel for Mark Brewer found at Page 63 of the Transcript of the Michigan Board of State Canvassers Hearing dated August 23, 2004 (see Exhibit 2).

⁵ Since Mark Brewer made the exact opposite contention in the Michigan ballot access proceedings referenced in the Complaint, this false and misleading representation was clearly deliberate.

⁶ Complaint, p. 2.

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Jeff S. Jordan, Supervisory Attorney

October 11, 2004

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We respectfully request the Federal Election Commission to carefully review the Michigan Court of Appeals Opinion of De Leeuw v Board of State Canvassers attached to the Complaint. Significantly, the Michigan Court of Appeals never determined that the MRSC's petition-gathering activity was not independent of the Nader campaign's petition-gathering activity. The Michigan Court of Appeals merely indicated that, for ballot access purposes (not campaign finance purposes), the Nader campaign's actions, taken subsequent to the MRSC's petition-gathering activity, (not when the MRSC collected and filed petition signatures) allow the MRSC's petitions to be counted towards the minimum number of petition signatures needed to place Ralph Nader on the ballot. In fact, the Michigan Court of Appeals' decision in De Leeuw v Board of State Canvassers adopted the following argument offered by the plaintiffs' counsel in De Leeuw v Board of State Canvassers:

"Because Ralph Nader chose not to withdraw the more than 50,000 elector signatures filed on his behalf, Ralph Nader has accepted all signatures filed on his behalf in support of his candidacy for President of the United States, thereby ratifying the actions of his 'authorized agents' for purposes of ballot access, whether or not such signatures were independently gathered. Again, the Secretary of State properly accepted all signatures filed on behalf of Ralph Nader."⁷

For the Complainant, Mr. Brewer, to now reverse his position on the independent nature of the MRSC's petition-gathering authority, is contrary to: (1) the Michigan Court of Appeals' decision in DeLeeuw v. Board of State Canvassers; (2) the arguments of the plaintiff's counsel in that case (Exhibit 3); and (3) the arguments of Mr. Brewer's counsel in that case (Exhibit 1 and 2).

There can be no legitimate question to the fact that the MRSC's petition-gathering activity was completely independent of the Nader campaign's petition-gathering activity. All expenses of the MRSC's petition-gathering activity were financed 100% from the MRSC's Federal Account⁸. Given the novelties of correctly reporting these expenses in light of the Bi-partisan Campaign Reform Act, the MRSC's Accounting Director requested guidance as to how to report the MRSC's petition-gathering activity with its RAD analyst, Ms. Colleen Manning. Although clear guidance was not obtained from these communications, the

⁷ Excerpt from pleadings filed before the Michigan Court of Appeals in De Leuw v Board of State Canvassers (Exhibit 3.)

⁸ We assume that the Michigan Democratic Party's independent efforts in opposition to the Nader campaigns' petition-gathering activity and the MRSC's petition-gathering activity, will be appropriately financed 100% from its Federal Account; consequently, the MRSC has no intention of filing a complaint with the Federal Election Commission based on the Michigan Democratic Party's independent efforts in this matter.

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Jeff S. Jordan, Supervisory Attorney
October 11, 2004
Page 5

MRSC has made its best efforts to fully report its petition-gathering activities to the Federal Election Commission.

For the foregoing reasons, the Complaint in this matter must be dismissed. Since this meritless Complaint was filed merely to smear the MRSC and Ralph Nader in the Press⁹, we respectfully request an expeditious dismissal.

Sincerely,

FOSTER, SWIFT, COLLINS & SMITH, P.C.


Eric E. Doster

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⁹ See Press Release entitled "MDP Files FEC Complaint Against MIGOP, Nader" (Exhibit 4).

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**STATE OF MICHIGAN
BEFORE THE BOARD OF STATE CANVASSERS**

**CHALLENGE TO PETITION SIGNATURES
FILED TO QUALIFY RALPH NADER AS A
CANDIDATE FOR PRESIDENT OF THE UNITED STATES**

INTRODUCTION

The purpose of a candidate nominating petition signature requirement is to demonstrate that a candidate has a sufficient level of support among the voters to justify placing his or her name on the ballot. See, e.g., Jenness v Fortson, 403 U.S. 431 (1971). Ralph Nader has failed to file a sufficient number of valid signatures to demonstrate that support so as to qualify as an independent candidate on the Michigan ballot for President of the United States.

On Thursday, July 15, 2004, the last day for filing a qualifying petition for nomination as an independent presidential candidate, Ralph Nader filed a petition which he claimed contained an estimated 5,463 elector signatures. On that same day, the Michigan Republican party filed an estimated 45,040 elector signatures gathered by its own circulators.¹ The Affidavit of Identity and Receipt of Filing submitted by Nader acknowledged under oath a petition consisting of less than 6,000 signatures. A letter from Nader's attorney to the Secretary of State and the Director of the Bureau of Elections disclaimed any reliance on signatures other than those filed with Nader's own qualifying petition. The Nader campaign repeatedly and publically disavowed the Republican Party

¹ The Republican Party made no secret of its campaign to circulate petitions during the last few weeks before the filing deadline. See, e.g., "Ralph Nader Gets GOP Help" *The Detroit News*, 7/9/04 (attached As Exhibit 1).

Section 590b.⁶ Hence, the candidate who files a qualifying petition also must file all of the elector signatures included in that petition. The Election Law assumes that the candidate is responsible for obtaining the elector signatures for his own petition:

It shall be unlawful for any candidate to wilfully and intentionally procure more names upon nominating petitions than the maximum number prescribed in this act. (Section 548)

Given the fact that, as discussed below, Ralph Nader expressly disclaimed the estimated 45,040 elector signatures filed by the Michigan Republican Party, those signatures should not be included as part of Nader's qualifying petition.

B. Ralph Nader's Qualifying Petition Contained Less Than 6,000 Signatures.

If Ralph Nader rather than the Michigan Republican Party must file a qualifying petition to place Nader's name on the ballot, as the Election Law unequivocally provides, then Nader's qualifying petition contained far fewer than the required 30,000 elector signatures. Nader acknowledged filing 5,463 signatures at the most. He expressly disclaimed the signatures filed by the Republican Party. In light of that repudiation, including the Republicans' signatures as part of Ralph Nader's qualifying petition would contravene the Election Law's language and its purpose.

Bureau records show that Nick De Leeuw, a Republican Party operative, filed an estimated 33,764 signatures at 10:19 a.m. on July 15, 2004. (Exh. 2) While the receipt identified "Ralph Nader" as the filer, Ralph Nader was not the filer. There is no evidence

⁶ Subsection 590b(1) states: "Except as provided in subsection (2) and subject to the requirements prescribed in subsections (3) and (4), a qualifying petition for an office shall be signed by a number of qualified and registered electors . . ." Subsection (2) states: "the qualifying petition shall be signed by a number of qualified and registered electors of this state . . ." Subsection (3) refers to, "All signatures on a qualifying petition. . ."

that De Leeuw was acting on behalf of Nader or with his authorization. Unquestionably, De Leeuw had no authorization from Nader and was acting as an agent of the Michigan Republican Party.

At 1:52 p.m., Margaret Guttshall Vitale filed an estimated 5,463 signatures. (Exh. 3) She was an authorized agent of Nader '04. Upon information and belief, she was told by a Bureau official that her filing was considered "supplemental" to the signatures filed earlier that day by the Republicans. After consulting with the Nader campaign, Guttshall Vitale refused to acknowledge that her filing was supplemental to the Republican Party filing, and refused to accept a receipt of filing so stating. Later that afternoon, at 3:25 p.m., De Leeuw and Republican Party Executive Director Greg McNeilly filed another estimated 11,276 signatures. (Exh. 4)

At all times Nader has acknowledged only the 5,463 signatures filed with his qualifying petition; and he has disavowed the signatures filed by the Republicans. An Affidavit of Identity and Receipt of Filing signed and attested by Nader certified Nader's qualifying petition as containing an estimated 4,500 signatures. (Exh. 5) The receipted number of petition sheets above the candidate's affidavit was 649.

A July 14, 2004 letter from Nader legal counsel Bruce I. Afran to the Secretary of State and Director Chris Thomas, posted on Nader's internet web site, expressly disclaimed any reliance on or acceptance of the Republican Party signatures. (Exh. 6) Afran stated that the Nader campaign expected to file a qualifying petition with approximately 4,500 signatures the next day, "to preserve their rights to appear on the ballot in the event that their preferred Reform Party ballot position is not recognized by the courts." The letter described Nader's qualifying petition as "prophylactic in nature," and

stated:

We realize that this estimated filing will not in and of itself satisfy the signature requirement but we anticipate seeking equitable extension of the filing deadline due to the unexpected interference with our Reform Party ballot position.

In other words, the clear intent and expectation of the Nader campaign, as articulated by its legal counsel, was to file a qualifying petition with the stated insufficient number of signatures.

Nader's press statements confirmed his disavowal of the Republican signatures. On July 9, 2004, the *Detroit Free Press* reported a statement by Ralph Nader spokesman Kevin Zeese that Nader did not need Republican help to get on Michigan's ballot. ("GOP Lends Eager Hand To Nader's Mich. Effort" *Detroit Free Press*, 7/9/04) (Exh. 7) On July 15, 2004, *Gongwer News Service* reported Zeese's statement that the Nader campaign would not accept the Republican Party signatures. ("More Than 50,000 Signatures Filed For Nader" *Gongwer News Service*, 7/15/04, attached, Exh. 7) An AP news story quoted Zeese as saying that the Nader campaign would not accept petition signatures gathered by Republicans. ("Nader To Shun GOP Help With Election Petition" *Detroit Free Press*, 7/16/04, attached, Exh. 7) Zeese was quoted as saying, "We have not taken any signatures from them. We won't take any signatures from them. It's very clear from the [Afran] letter that we plan to get on the ballot through the Reform Party." The story reported Zeese's acknowledgment that "the campaign is submitting the signatures, far short of those needed, even though Nader still plans to get on the ballot through the Reform Party." Thus, Nader's own public statements clearly identified the petition signatures being filed by the candidate, which expressly excluded the Republican Party

filings.

The Republican Party signatures cannot fairly be attributed to Nader over his protestations that they are not part of his qualifying petition.

II. THE REPUBLICAN PARTY PETITIONS CONTAIN A FRAUDULENT AND MISLEADING IDENTIFICATION STATEMENT.

As discussed elsewhere, the Republican Party undoubtedly incurred a significant expense in obtaining an estimated 45,000 signatures within a period of only a few weeks. One way they accomplished this was by using paid staff as circulators. Nevertheless, the petitions the Republicans circulated misleadingly told electors that they were paid for by Nader's campaign rather than by the Michigan Republican Party. The petitions circulated by the Republicans contained the following statement: "Paid for by Nader for President 2004." This statement was false and misleading. While the Republicans were not required to place any identification on the petition forms they circulated, they chose to include false and inaccurate information which potentially misled untold numbers of electors.

III. A NUMBER OF PETITIONS OR SIGNATURES ARE INVALID BECAUSE THE CIRCULATOR OR THE ELECTOR WERE NOT REGISTERED VOTERS.

Exhibit 8 is a compiled listing of petitions which should not be counted, either because the circulator signatures were fraudulent or invalid, as discussed below in part IV, or because of other defects under the Election Law. Signatures on petitions identified in Exhibit 8 as "Circulator not registered" should not be counted because the circulator was not a registered Michigan voter as required under the Election Law. A number of signatures, identified in Exhibit 8, are invalid because they post-dated the circulator's dated

other than Ralph Nader or his designated agent, and I also challenge the signatures specifically set forth in the attached pages and exhibits, identified as required by the statute, by petition number, line number, and the identified defect(s). I request that the Board review this challenge, hold a hearing as both permitted and required by the statute, and that it refuse to certify the candidacy of Ralph Nader.

I declare that the foregoing statements are true upon information an belief.



Mark Brewer


Home: 37414 Stonegate Circle

Office:

Lansing, MI 48933

STATE OF MICHIGAN)
COUNTY OF WAYNE)ss

Subscribed and sworn to before me
this 22ND day of July, 2004.



Notary Public, WASHTENAW County, Michigan
My Commission expires: 12-7-05

SACHS WALDMAN, Professional Corporation
By: Mary Ellen Gurewitz (P25724)
Andrew Nickelhoff (P 37990)
1000 Farmer Street
Detroit, MI 48226
313-496-9441

Dated: July 22, 2004

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STATE OF MICHIGAN

TERRI LYNN LAND, SECRETARY OF STATE

DEPARTMENT OF STATE

BOARD OF STATE CANVASSERS MEETING

August 23, 2004
State Capitol
Lansing, Michigan

BOARD MEMBERS - DOROTHY JONES - Chairman
ERIC J. PELTON - Vice-chairman
DOYLE O'CONNOR - Present
KATHERINE DeGROW - Present
CHRISTOPHER THOMAS - Director of Elections
BRADLEY WITTMAN - Secretary of State Staff
GARY GORDON - Assistant Attorney General
PATRICK O'CONNOR - Assistant Attorney General
HEATHER MEINGAST - Assistant Attorney General

Recorded by - NETWORK REPORTING CORPORATION
Karen J. Reid, CER-5157

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"For the purpose of this act, qualifying petition means a nominating petition required of and filed by a person to qualify to appear on an election ballot as a candidate for office without political party affiliation."

And then in section 3, it says:

"A person filing a qualifying petition shall meet the qualifications prescribed by law to hold the office."

There are many references --

MR. PELTON: Are you suggesting that Ralph Nader himself needed to come here and submit the petition?

MS. GUREWITZ: No. Obviously, a candidate asks through his committee. I'm not saying that Mr. Nader needed to personally appear in Michigan. But the candidate committee certainly needed to support this nomination with an adequate number of signatures and did not do so, by its own admission. There are numerous references in Section 590, as well as other sections of the election law, which refer to a qualifying petition and make clear that it is the candidate who files the qualifying petition, the candidate who controls it, the candidate who is supposed to be notified about its sufficiency or insufficiency, and the candidate who goes to court if he or she feels aggrieved about the petition not being certified. It is unfair to a candidate to permit some other entities, some other third

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parties, to file petition signatures which the candidate has declared he does not want and which -- the candidate certainly has the authority to say, "I accept these." He can get the signatures from whoever collects them and make them his own by filing them. But what I am suggesting to you is that the statutory language does not permit a third party, anybody else to come in with an independent filing which the candidate has himself not incorporated into his filing. If he had come in and said, "I am filing 50,000 petition signatures," 4500 were collected by him and 43,000 or 45,000 by the Republicans, that would have been it. Those would have been his signatures. But clearly, they were not, and he had a reason for not adopting those signatures.

Let me also address the third point, because I think this is really a critical one. The Michigan Republican Party was very clear about its intention to get Mr. Nader on the ballot. And we have submitted evidence to the board, both in our original challenge and in a subsequent supplemental evidentiary filing, which did not raise any additional challenges but simply supported the ones which we had timely and specifically made. We have offered evidence to this board of fraud committed by Republican Party employees in the collection of these signatures. You can look at what we submitted as Exhibit 12, which were

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STATE OF MICHIGAN
IN THE COURT OF APPEALS

NICK DELEEUW, JOSH TWIEST,
SEAN DEVETTE, and RYAN DEVETTE,

Plaintiffs,

Court of Appeals No. _____

v

MICHIGAN BOARD OF STATE CANVASSERS
and TERRI LYNN LAND, in her official capacity
as Secretary of State

Defendants.

BRIEF IN SUPPORT OF COMPLAINT FOR MANDAMUS

ORAL ARGUMENT REQUESTED

**THE APPEAL INVOLVES A RULING THAT A PROVISION OF THE
CONSTITUTION, A STATUTE, RULE OR REGULATION, OR OTHER STATE
GOVERNMENTAL ACTION IS INVALID**

FOSTER, SWIFT, COLLINS & SMITH, PC
BY: ERIC E. DOSTER (P41782)
Attorneys for Plaintiffs
313 S. Washington Square
Lansing, MI 48933
(517) 371-8241

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SANDRA SCHULTZ-MENGEL
CHIEF CLERK

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Significantly, after filing the qualifying petition containing signatures of more than 50,000 Michigan electors, the Michigan Election Code allowed Ralph Nader to withdraw from the Michigan ballot as an independent candidate by July 19, 2004.⁴⁰ MCL 168.590c(3); MSA 6.1590c(3) Because Ralph Nader chose not to withdraw the more than 50,000 elector signatures filed on his behalf, Ralph Nader has accepted all signatures filed on his behalf in support of his candidacy for President of the United States, thereby ratifying the actions of his "authorized agents" for purposes of ballot access, whether or not such signatures were independently gathered. Again, the Secretary of State properly accepted all signatures filed on behalf of Ralph Nader.

CONCLUSION AND RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue a writ of mandamus and/or a declaratory judgment:

- a. Directing that the name of Ralph Nader be placed on the Michigan ballot for President of the United States in the November 2, 2004 General Election;
- b. Remanding this matter for an entry of an official declaration by Defendant Michigan Board of State Canvassers of the sufficiency of Ralph Nader's qualifying petition and for certification by the Defendant Michigan Secretary of State of the name of Ralph Nader as an independent candidate on the Michigan ballot for President of the United States in the November 2, 2004 General Election;
- c. That the Defendant Michigan Board of State Canvassers is under a duty to certify Ralph Nader as an independent candidate on the Michigan ballot for President of the United States in the November 2, 2004 General Election;
- d. That the Defendant Michigan Secretary of State is under duty to take any and all necessary action to place the name of Ralph Nader as an independent candidate on the Michigan ballot for President of the United States in the November 2, 2004 General Election;
- e. That the Court order such other relief as is equitable and just.

⁴⁰MCL 168.590c(3); MSA 6.1590c(3).

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News from

THE MICHIGAN DEMOCRATIC PARTY

FOR IMMEDIATE RELEASE

September 9, 2004

Contact: Jason Moon

517-371-5410

MDP Files FEC Complaint Against MIGOP, Nader

Nader and Michigan Republicans Break Election Law Putting Nader on the Ballot

LANSING- Today, the Michigan Democratic Party filed a complaint with the Federal Election Commission (FEC) against the Michigan Republican Party and the Ralph Nader for President campaign for excessive campaign contributions. Both broke election law in the MIGOP's extraordinary effort putting Nader as presidential candidate on Michigan's ballot.

Federal law states that a state political party is limited to \$5,000 in contributions to a presidential candidate. It is illegal both for a party to give and for a candidate to accept contributions in excess of that limit.

The MIGOP's effort to put Nader on the ballot included:

?MIGOP Executive Director Greg McNeilly collected at least 1,000 signatures himself.

?An email from the MIGOP was sent soliciting help collecting signatures for Nader.

?14 so-called "GOP Victory Centers" and their staff were used to distribute and collect Nader petitions.

?Paid MIGOP staff collected signatures.

?MIGOP Staffer Nick De Leeuw filed at least 45,000 signatures with the MI Board of Canvassers.

?MIGOP General Counsel Eric Doster defended the MIGOP gathered petition signatures before the MI Board of Canvassers and filed suit with the MI Court of Appeals after the Board deadlocked on their decision to put Nader on the ballot.

"The staff costs and administrative expenses incurred by the Michigan Republican Party in spending several weeks collecting and defending thousands of signatures for Nader clearly exceed the \$5,000 limit," said MDP Executive Chair Mark Brewer. "It would have cost Nader tens of thousands of dollars to collect those signatures himself. Nader and the Republicans should be found to have knowingly and willingly violated Federal law and should be punished accordingly."

The MDP also filed a petition with the FEC that asks the FEC to suspend payment of presidential primary matching funds to Nader because he failed to report the MIGOP contributions.

###

Paid for by the Michigan Democratic State Central Committee

Ex. 4

2504418891

STATEMENT OF DESIGNATION OF COUNSEL

Please use one form for each respondent.

MUR 5533

NAME OF COUNSEL: Eric Doster

FIRM: Foster, Swift, Collins, Smith

ADDRESS: 313 S. Washington Square
Lansing, MI 48933

TELEPHONE: (517) 371-8241

FAX: (517) 371-8200

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Henrietta Tow
Print Name

10/11/04
Date

Henrietta Tow
Signature

Assist. Treasur
Title

RESPONDENT'S NAME: Michigan Republican State Comm

ADDRESS: 2121 E. Grand River Ave
Lansing, MI 48912

TELEPHONE: HOME (517) 487-5413

^{Fax}
BUSINESS (517) 487-0090

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